

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL**

Writ Petition No. 1748 of 2008 (M/S)

Smt. Champa Upreti

W/o late Sri Diwakar Upreti

**Presently holding / officiating the
charge of District Program Officer,
Bhimtal, Nainital.**

... . Petitioner

Versus

1. State of Uttarakhand through

Secretary Mahila Shasaktikaran Evam

Bal Vikas, Uttarakhand, Dehradun.

**2. Director I.C.D.S. Uttarakhand, 25, Shastri Nagar,
Haridwar Road,**

Dehradun.

3. Chief Development Officer, Nainital.

**4. Chief Information Commissioner Uttarakhand,
Dehradun.**

5. Smt. Bharti Tiwari

W/o Dr. B.C. Tiwari, Advocate

**C/o Dr. Harihar Nath Dixit "Shivaparn" Haldwani,
Nawabi Raod, Haldwani,**

District Nainital.

... . Respondents

**Mr. B.S. Negi, Advocate, present for the writ petitioner.
Mr. N.P. Sah, Standing Counsel, present for respondents
No. 1, 2 & 3. Mr. Bhaskar Joshi, Advocate, holding brief
of Mr. Vipul Sharma, Advocate, present for respondent
No. 4. Mr. M.C. Pande, Advocate, present for respondent
No. 5.**

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, moved under Article 226 of the Constitution of India, the petitioner has sought quashing of the order dated 20th of August 2008, passed by Chief Information Commissioner, Uttarkhand, Dehradun, in Appeal No. A 662 / 2008 (and connected matters), whereby the petitioner has been directed to pay fine of ` 5,000/-, and a recommendation has been made for initiating departmental action against her.

2) Heard learned counsel for the parties and perused the affidavits and counter affidavits, on record.

3) Brief facts of the case are that the writ petitioner Smt. Champa Upreti was posted as Chief Development Project Officer, Bhimtal, and was In-charge of District Program Officer. It is pleaded by her that respondent No. 5 Smt. Bharti Tiwari, against whom there were certain allegations of financial irregularities, was called to explain her conduct by the Chief Development Officer vide his letter dated 30th of September 2006, and an enquiry was directed by the District Magistrate, in the matter. Certain documents were found misplaced by the enquiry committee, and later a direction was issued to lodge a first information report against respondent No. 5 and two other employees, namely Maya Verma and Bishan Singh Dhapola, in the year 2007. It appears that respondent No. 5 sought certain information under Right to Information Act, 2005, by moving applications on 29.10.2007, 30.10.2007, 03.11.2007 and 05.11.2007. The writ petitioner was Public Information Officer. The information could not be given within the

time as provided under the Act and the Rules. The respondent No. 5 filed an appeal before the first appellate authority (Director, I.C.D.S.), and thereafter approached the Chief Information Commissioner, Uttarakhand, Dehradun, and filed appeals A 662 / 2008, A 663 / 2008, A 664 / 2008 and A 665 / 2008. The Chief Information Commissioner found that the Public Information Officer was at fault in not supplying the information in time after obtaining the same from the Directorate of the department concerned.

4) Having heard learned counsel for the parties and after going through the affidavits filed between the parties, this court finds that it is not disputed that the writ petitioner was Public Information Officer, and respondent No. 5 sought the information under Right to Information Act, 2005. It is also not disputed in the record that ultimately the respondent No. 5 was supplied the informations at a delayed stage. As to the delay, the writ petitioner had given its explanation to the Chief Information Commissioner regarding the fact that she was not in possession of the entire record, and it had to be taken from the Directorate. However, the Chief Information Commissioner preferred not to accept the explanation, and directed that departmental enquiry shall initiate against the petitioner, and also imposed fine of ` 5,000/-.

5) This court after going through the record, and considering the submissions of learned counsel for the parties, is of the view that it is not necessary for the Chief Information Commissioner to impose fine and recommend departmental proceedings in each and every case against the Public Information Officer, merely on the ground that there had been some delay in supplying the information. The explanation given by the officer (present writ petitioner) could not be said to be false. The practical difficulties in supplying the information at a late stage have been brought on record, and in the circumstances of the case, this court is of the view that it was not just and proper on the part of the Chief Information Commissioner to impose fine, and recommend departmental enquiry against the present writ petitioner.

6) Therefore, this writ petition is disposed of with the direction that the impugned order passed by respondent No. 4 is quashed to the extent said authority has recommended departmental proceedings against the present writ petitioner, and imposed fine of ` 5,000/-. Costs easy.

(Prafulla C. Pant, J.)

Dt. November 23, 2010.

H. Negi